

## **REMARKS**

Claims 1-56 were presented for examination and were pending in this application. In a final Official Action dated January 2, 2009, claims 1-56 were rejected.

On January 29, 2009, the Examiner and the applicant's representative had a telephone conversation regarding the office action. The content of the telephonic conversation is presented below.

### **Response to Rejection under 35 USC §103(a)**

In the final Office Action, the Examiner rejects claims 1-56 under 35 USC §103(a) as allegedly being unpatentable over U.S. Patent No. 7,395,349 ("Szabo") in view of U.S. Patent No. 7,464,154 ("Dick"). This rejection is respectfully traversed.

#### **A. The Examiner must withdraw the Final Office action because the Examiner did not establish a prima facie case of obviousness when the Examiner cited against the claimed invention parts of Szabo that do not predate the claimed invention.**

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. MPEP 2142. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See also* MPEP 706.

The Examiner cites Szabo against the claimed invention but the Examiner does not respond to Applicant's argument from Amendment dated 10/27/08 and explain Szabo's pertinence with respect to the claim. The Applicant argued in previous amendment that cited parts of Szabo cannot be cited against the claimed reference because Szabo predates the

claimed invention **only** to the extent of the material disclosed in the provisional application of Szabo. *See* Amendment dated 10/27/08. The provisional application, however, does not provide support for the Examiner's arguments because the provisional application is a PowerPoint presentation disclosing a few configurations of load balancers. The presentation does not disclose a traffic manager, a client node, and a server node wherein the client node and the server node have a distinguishing characteristic. The Examiner did not respond to this argument from previous amendment and the Examiner did not provide any support from the provisional for the parts cited from Szabo. Because the Examiner did not respond to the Applicant's argument and did not provide support for cited parts in Szabo, the Examiner did not establish a prima facie case of obviousness. The Applicant therefore requests the Examiner to withdraw this final office action.

**B. Dick does not disclose the claimed invention because SOAP does not disclose a traffic manager that "generate[s] at least a second interface, for communication with the first interface, in accordance with the at least one policy, wherein the at least one policy provides a mechanism to bridge the at least one distinguishing characteristic."**

Claim 1 recites:

A traffic manager for facilitating communication in accordance with at least one policy between a client node and a server node wherein the client node and the server node have at least one distinguishing characteristic between them and the at least one distinguishing characteristic includes more than having distinguishing network addresses, the server node having a first interface associated therewith, the client node having an existing interface associated therewith, the traffic manager capable of communicating with both the client node and the server node and comprising a central processing unit which is operable to:

communicate with the server node via the first interface, wherein the first interface is incompatible with the existing client interface because of the at least one distinguishing characteristic;  
**generate at least a second interface**, for communication with the first interface, in accordance with the at least one policy, wherein the at least one policy

provides a mechanism to bridge the at least one distinguishing characteristic;  
and  
**publish the second interface**, thereby allowing the client node to access  
at least one service on the server node via the traffic manager in  
accordance with the at least one policy.

The Examiner argues that Dick at 11:16-11:30 discloses the above mentioned limitation but the cited part discloses a general description of SOAP and not a traffic manager that “generate[s] at least a second interface, for communication with the first interface, in accordance with the at least one policy, wherein the at least one policy provides a mechanism to bridge the at least one distinguishing characteristic.”

SOAP provides a framework to facilitate communication between different computing nodes (Dick, 11:16-30). The framework is provided through SOAP envelope and SOAP encoding rules. *See* Specification [0004]-[0005]. While the SOAP framework is helpful in facilitating communication between the two nodes, the framework creates inefficiencies by enabling each node to create its own interfaces. *See* Specification [0010].

The claimed invention addresses the inefficiencies of SOAP through a traffic manger. “[I]nstead of enabling each node to generate the necessary interfaces for communicating with each other type of node in the system, the present invention abstracts and centralizes this function so that a single node or set of nodes is responsible for affecting the communications between disparate nodes.” *See* Specification [0021]

SOAP and Dick do not disclose the above mentioned limitation and instead teach away from the claimed limitation. While SOAP and Dick enable and encourage implementation of individual interfaces on individual nodes, the present invention moves away from the teachings of Dick and centralizes the creation of interfaces through a traffic manager. Because neither SOAP nor Dick disclose one or more entities that generate

interfaces according to a policy for other entities, Dick does not disclose “generate[s] at least a second interface, for communication with the first interface, in accordance with the at least one policy, wherein the at least one policy provides a mechanism to bridge the at least one distinguishing characteristic.”

**C. Dick does not disclose the claimed invention because SOAP does not disclose a traffic manager that “publish[es] the second interface, thereby allowing the client node to access at least one service on the server node via the traffic manager in accordance with the at least one policy.”**

The Examiner cites the same part of Dick at 11:16-11:30 for disclosing a traffic manager that publishes the second interface thereby allowing the client to access at least one service on the server. Again, the cited part discloses a general description of SOAP and SOAP does not disclose a **traffic manager that publishes** an interface that allows a client to access a service on the server.

Because neither SOAP nor Dick disclose one or more entities that publish an interface thereby allowing the client to access at least one service on the server, Dick does not disclose the above mentioned limitation.

In sum, the Examiner did not establish a prima facie case of obviousness because the Examiner did not support cited parts of Szabo with disclosure in provisional application of Szabo. Moreover, the Szabo provisional and Dick, whether considered alone or combined, do not disclose limitations of claim 1. Therefore a person of ordinary skill in the art considering the teachings of the references would not find the claimed invention obvious. Independent claims 17, 33, 41, and 55 are not obvious for at least the same reasons. The independent claims 42 and 54 do not recite the “publish the second interface ...” limitation.

The independent claims 42 and 54, however, do recite the other limitations argued in this amendment and the independent claims 42 and 54 are not obvious based on those arguments. The dependent claims incorporate the limitations of their base claims and are also not obvious for at least the same reasons.

Allowance of all claims is requested. If the Examiner believes that direct contact with the Applicant's attorney will advance the prosecution of this case, the Examiner is encouraged to contact the undersigned as indicated below.

Respectfully Submitted,

Dated: February 23, 2009

By: /Greg T. Sueoka/  
Greg T. Sueoka, Reg. No.: 33,800  
Attorney for Applicant  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
Tel.: (650) 335-7194  
Fax.: (650) 938-5200